



BellSouth Telecommunications, Inc.  
333 Commerce Street, Suite 2101  
Nashville, TN 37201-3300

guy.hicks@bellsouth.com

REC'D TN  
REGULATORY AUTH.

Guy M. Hicks  
General Counsel

01 DEC 12 PM 4 02

OFFICE OF THE  
EXECUTIVE SECRETARY  
615 214 6301  
Fax 615 214 7406

December 12, 2001

**VIA HAND DELIVERY**

Mr. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

Re: *Approval of the Amendment to the Resale Agreement Negotiated by BellSouth Telecommunications, Inc. and LCI International Telecom Corporation, d/b/a Qwest Communications Services Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996*  
Docket No. 01-00550 *01-01115*

Dear Mr. Waddell:

Pursuant to Section 252(e) of the Telecommunications Act of 1996, LCI International Telecom Corporation, d/b/a Qwest Communications Services and BellSouth Telecommunications, Inc. are hereby submitting to the Tennessee Regulatory Authority the original and thirteen copies of the attached Petition for Approval of the Amendment to the Resale Agreement. The Amendment incorporates the CSA agreement into the Resale Agreement.

Thank you for your attention to this matter.

Sincerely yours,



Guy M. Hicks

cc: Qwestlink

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In re: *Approval of Amendment to the Resale Agreement Negotiated by BellSouth Telecommunications, Inc. and LCI International Telecom Corporation, d/b/a Qwest Communications Services Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996*

Docket No. ~~01-00550~~ 01-01115

**PETITION FOR APPROVAL OF AMENDMENT TO  
THE RESALE AGREEMENT NEGOTIATED BETWEEN  
BELLSOUTH TELECOMMUNICATIONS, INC.  
AND LCI INTERNATIONAL TELECOM CORPORATION, D/B/A QWEST  
COMMUNICATIONS SERVICES PURSUANT TO THE  
TELECOMMUNICATIONS ACT OF 1996**

COME NOW, LCI International Telecom Corporation, d/b/a Qwest Communications Services ("Qwest") and BellSouth Telecommunications, Inc., ("BellSouth"), and file this request for approval of the Amendment to the Resale Agreement dated November 15, 2000 (the "Amendment") negotiated between the two companies pursuant to Sections 251 and 252 of the Telecommunications Act of 1996, (the "Act"). In support of their request, Qwest and BellSouth state the following:

1. Qwest and BellSouth have successfully negotiated an agreement providing for the resale of BellSouth's telecommunications services to Qwest. The Resale Agreement was approved by the Tennessee Regulatory Authority ("TRA") on August 7, 2001.
2. The parties have recently negotiated an amendment to the Resale Agreement which incorporates the CSA agreement into the Resale Agreement. A copy of the Amendment is attached hereto and incorporated herein by reference.
3. Pursuant to Section 252(e) of the Telecommunications Act of 1996, Qwest and BellSouth are submitting their Amendment to the TRA for its consideration and approval.

4. In accordance with Section 252(e) of the Act, the TRA is charged with approving or rejecting the negotiated Amendment between Qwest and BellSouth within 90 days of its submission. The Act provides that the TRA may only reject such an agreement if it finds that the agreement or any portion of the agreement discriminates against a telecommunications carrier not a party to the agreement or the implementation of the agreement or any portion of the agreement is not consistent with the public interest, convenience and necessity.

5. Qwest and BellSouth aver that the Amendment is consistent with the standards for approval.

6. Pursuant to Section 252(i) of the Act, BellSouth shall make the Agreement available upon the same terms and conditions contained therein.

Qwest and BellSouth respectfully request that the TRA approve the Amendment negotiated between the parties.

This 12<sup>th</sup> day of Dec, 2001.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

Guy M. Hicks  
333 Commerce Street, Suite 2101  
Nashville, Tennessee 37201-3300  
(615) 214-6301  
Attorney for BellSouth

**Amendment to  
Agreement between  
LCI International Telecom Corporation, d/b/a Qwest Communications Services  
and  
BellSouth Telecommunications, Inc.**

This Agreement (the "Amendment") is made and entered into between LCI International Telecom Corporation, d/b/a Qwest Communications Services, a Delaware corporation ("Qwest") and BellSouth Telecommunications, Inc. ("BellSouth"), a Georgia corporation.

WHEREAS, Qwest and BellSouth (hereinafter referred to collectively as the "Parties") have entered into that certain Agreement, effective August 4, 2000, for the State of Tennessee, which has or will be filed with the Commission in said state (as filed, the "Tennessee Agreement"); and

WHEREAS, the Parties have also entered into Agreements, effective August 4, 2000, for the States of Alabama, Florida, Georgia, Kentucky, Louisiana Mississippi, North Carolina and South Carolina (the "Agreement") which have or will be filed with the Commissions in each of said states; and

WHEREAS the Parties desire to amend the Tennessee Agreement; and

WHEREAS, the Parties have also entered into a contract service arrangement whereby Qwest may purchase certain BellSouth services pursuant to a Volume and Term Agreement having an Effective Date of January 5, 2001 ("Volume and Term Agreement"); and

WHEREAS, the Parties desire to amend the Tennessee Agreement to incorporate the Volume and Term Agreement as an attachment to the Tennessee Agreement.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Qwest and BellSouth hereby covenant and agree that the General Terms and Conditions of the Tennessee Agreement be amended as follows:

1. A new Attachment 2 of the Agreement is created as set forth in Exhibit 1 of this Amendment and incorporated herein by this reference.
2. The Parties acknowledge and agree that the term of the Volume and Term Agreement exceeds the term of the Tennessee Agreement. As such, the Parties hereby agree that the Volume and Term Agreement shall be incorporated into any agreement subsequently entered into by the Parties for the State of Tennessee for the remainder of the term set forth in the Volume and Term Agreement. If no such subsequent agreement

is negotiated, this Amendment shall survive until the expiration of the term of the Volume and Term Agreement.

3. Except as expressly provided herein, all other provisions of the Tennessee Agreement, the Agreement and the Volume and Term Agreement shall remain unchanged and in full force and effect.

4. Nothing in this Amendment shall in any way amend, modify, alter, limit, change, restrict or otherwise effect the rights, benefits, duties, obligations or liabilities of the Parties under the Volume and Term Agreement or the rates, terms and conditions contained therein.

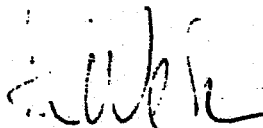
5. For purposes of this Amendment, capitalized terms have the meanings set forth herein unless the context requires otherwise. Terms that appear herein (whether or not capitalized) that are not defined herein have the meanings ascribed to them in the Agreement or the Volume and Term Agreement, as the case may be, and if not defined therein have the meanings ascribed to them in the Act, or (if not defined therein) have the meanings customarily associated with them based on ordinary usage in the telecommunications industry as of the Effective Date.

6. BellSouth and Qwest covenant that this Amendment shall be promptly submitted to the Tennessee Regulatory Authority for approval pursuant to section 252(e) of the Act, and agree that either or both of the parties is authorized to submit this Amendment to the Tennessee Regulatory Authority.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

**LCI International Telecom Corporation,  
d/b/a Qwest Communications Services**

**BellSouth Telecommunications, Inc.**

  
\_\_\_\_\_  
Signature

Kirk Weston  
\_\_\_\_\_  
Name

SVP QCC  
\_\_\_\_\_  
Title

10/17/01  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature

C. W. Boltz  
\_\_\_\_\_  
Name

Managing Director  
\_\_\_\_\_  
Title

10-23-01  
\_\_\_\_\_  
Date

**CONTRACT SERVICE ARRANGEMENT  
AGREEMENT**

EXHIBIT 1

Case Number TN00-5049-00

Option 1 of 1

This Contract Service Arrangement Agreement ("Agreement") is by and between BellSouth Telecommunications, Inc., a Georgia corporation, (BellSouth or Company) and Qwest Communications Corporation, a Delaware corporation, (Qwest, Customer or Subscriber), and is entered into pursuant to Tariff Section A5 of the General Subscriber Services Tariff. This Agreement is based upon the following terms and conditions as well as any Attachment(s) affixed and the appropriate lawfully filed and approved tariffs which are by this reference incorporated herein.

1. **Services.** Subscriber requests and Company agrees, subject to the terms and conditions herein, to provide the service described in the Attachment(s) at the monthly and nonrecurring rates, charges, and conditions as described in the Attachment(s) ("Service"). The rates, charges, and conditions described in the Attachment(s) are binding upon Company and Subscriber for the duration of this Agreement. For the purposes of the effectiveness of the terms and conditions contained herein, this Agreement shall become effective upon execution by both parties. For purposes of the determination of any service period stated herein, said service period shall commence the date upon which installation of the Service is completed.

2. **Tariffs.** This Agreement is subject to and controlled by the provisions of Company's or any of its affiliated companies' lawfully filed and approved tariffs, including but not limited to Section A2 of the General Subscriber Services Tariff and No. 2 of the Federal Communications Commission Tariff and shall include all changes to said tariffs as may be made from time to time. The appropriate tariff governs Company's provision, and Subscriber's consumption, of the Service, except for the rates, charges, terms and conditions herein. In the event any part of this Agreement conflicts with terms and conditions of Company's or any of its affiliated companies' lawfully filed and approved tariffs, the terms of this Agreement shall control as permitted under Section A5.6.1(c) of the General Subscriber Service Tariff.

3. **Regulatory Approval.** This Agreement may be subject to the appropriate regulatory approval prior to commencement of installation. Should such regulatory approval be denied, after a proper request by Company, this Agreement shall be null, void, and of no effect.

4. **Termination Prior to Installation.** Except as may be otherwise provided herein, if Subscriber cancels this Agreement prior to the completed installation of any of the Service, but after the execution of this Agreement by Subscriber and Company, for any reason other than as permitted herein or for Company's material breach of its obligations hereunder, Subscriber shall pay all reasonable costs incurred in the implementation of this Agreement prior to receipt of written notice of cancellation by Company.

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Case Number TN00-5049-00  
Option 1 of 1

Notwithstanding the foregoing, such reasonable costs shall not exceed all costs which would apply if the work in the implementation of this Agreement had been completed by Company.

**5. Termination After Installation.** (a) If Subscriber cancels this Agreement at any time prior to the expiration of the service period set forth in this Agreement, unless Subscriber terminates for Company's material breach or as otherwise provided herein, Subscriber shall be responsible for all termination charges. Unless lower termination charges are otherwise specified by tariff, termination charges are set forth in the Attachment(s).

(b) Subscriber further acknowledges that it has options for its telecommunications services from providers other than BellSouth and that it has chosen BellSouth to provide the services in this Agreement. Accordingly, if Subscriber assigns this Agreement to a certified reseller of BellSouth local services which is not affiliated with Subscriber and the reseller executes a written document agreeing to assume all requirements of this Agreement, Subscriber will not be billed termination charges. However, Subscriber agrees that in the event it fails to meet its obligations under this Agreement or terminates this Agreement or services purchased pursuant to this Agreement in order to obtain services from a facilities based service provider or a service provider that utilizes unbundled network elements, Subscriber will be billed, as appropriate, termination charges as specified in this Agreement.

**6. Governing Law.** This Agreement shall be construed in accordance with the laws of the State in which the Service is to be provided.

**7. Notices.** Except as otherwise provided in this Agreement, notices required to be given pursuant to this Agreement shall be effective when received, and shall be sufficient if given in writing, hand delivered, or United States mail, postage prepaid, addressed to the appropriate party at the address set forth below. Either party hereto may change the name and address to whom all notices or other documents required under this Agreement must be sent at any time by giving written notice to the other party.

**Company**

-----  
BellSouth Telecommunications, Inc.  
Assistant Vice President  
600 N. 19<sup>th</sup> Street, 10<sup>th</sup> FL  
Birmingham, AL 35203

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New York

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-----  
Qwest Communications Corporation  
4250 Fairfax Drive, RM 900  
Arlington, VA 22203

8. **Assignment.** Subscriber may not assign its rights or obligations under this Agreement without the express written consent of Company and only pursuant to the conditions contained in the appropriate tariff. Notwithstanding the foregoing, Subscriber may assign its rights and benefits and delegate its duties and obligations under this Agreement without the consent of the Company (i) to any affiliate (except for any of Subscriber's affiliated resellers of local telephone service), (ii) to any entity that acquires a majority of the outstanding voting stock of Subscriber or all or substantially all of the assets of Subscriber, or (iii) if necessary to satisfy the rules, regulations and/or orders of any federal, state or local governmental agency or body, provided (1) that Subscriber remains liable for all obligations to Company arising prior to the date of assignment, and (2) that Subscriber's assignee agrees to use the Service in substantially the same manner as Subscriber under this Agreement and agrees to assume all of Subscriber's past, present, and future obligations arising under this Agreement.

9. **Severability.** In the event that one or more of the provisions contained in this Agreement or incorporated within by reference shall be invalid, illegal, or unenforceable in any respect under any applicable statute, regulatory requirement or rule of law, then such provisions shall be considered inoperative to the extent of such invalidity, illegality, or unenforceability and the remainder of this Agreement shall continue in full force and effect.

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1/10/01



**CONTRACT SERVICE ARRANGEMENT  
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates set forth below.

Accepted by:  
Subscriber:  
Qwest Communications Corporation

By: [Signature]  
Authorized Signature

Printed Name: Vicki Westan

Title: SVP-QIS

Date: 12/15/00

Company:  
BellSouth Telecommunications, Inc.

By: [Signature]  
Authorized Signature

Printed Name: Roderick D. Odum, Jr.  
Title: Assistant Vice President

Date: 1.5.01

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[Handwritten signature]

**CONTRACT SERVICE ARRANGEMENT  
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Option 1 of 1**ATTACHMENT 1  
REMOTE ACCESS SERVICE****SERVICE DESCRIPTION**

This Contract Service Arrangement provides for BellSouth® Remote Access Service as defined at Section A47 of the General Subscriber Service Tariff (the "Service").

This Agreement has a minimum service period of forty eight (48) months (see below).

All BellSouth trademarks and service marks designated herein are the property of BellSouth Intellectual Property Corporation.

**RATES AND CHARGES**

<u>Rate Element</u>	<u>Nonrecurring Charge</u>	<u>Monthly Rate</u>	<u>USOC</u>
1. Contract Preparation Charge	\$0	\$0	
2. BellSouth® Remote Access Service (RAS) (Subject to Terms & Conditions in Notes)	\$ 45.00	\$29.00	

**NOTES:****Terms & Conditions  
Remote Access Service**

1. Qwest agrees to order 75,000 RAS ports (Ports) by December 31, 2000. BellSouth will install these Ports according to a mutually agreed upon schedule pursuant to forecasts to be provided by Qwest. BellSouth will bill Qwest for each such Port during the Service Period, as set forth in paragraph 10 below.

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2. Qwest agrees to order an additional 190,000 Ports by December 31, 2001; of which 75,000 will be ordered by June 30, 2001 and the remaining 115,000 will be ordered by December 31, 2001. BellSouth will install these Ports according to a mutually agreed upon schedule pursuant to forecasts provided by Qwest. BellSouth will bill Qwest for each such Port during the Service Period, as set forth in paragraph 10 below.
3. Subject to paragraphs 4, 5 and 6 below, BellSouth will bill the Services in arrears on a per-Port basis beginning on the Billing Date for such Port (as set forth in paragraph 17 below) at a base rate of \$29 per month per Port, which rate includes all billable costs of initial installation associated with such Port. The base rate will be adjusted to the following effective price Qwest will pay for the Service based on average monthly BMOU\* for all Ports provided to Qwest under this Agreement, pursuant to the provisions of Section 5 below. Subject to any adjustments or charges permitted or required under this Agreement, any late payment charges permitted under tariff, any federally or state mandated or permitted surcharges or taxes and except for egress circuits that may be required to deliver the BellSouth RAS traffic to Qwest's designated location, the rates and charges set forth herein constitute the totality of charges for which BellSouth may bill Qwest in connection with the Services under this Attachment.

	Average BMOU* Per Port							
	0 to 2,699	2,700 to 5,399	5,400 to 10,799	10,800 to 12,599	12,600 to 14,399	14,400 to 16,199	16,200 to 17,099	17,100 or greater
Price per Port	\$29.00	\$26.00	\$23.00	\$20.00	\$19.00	\$18.00	\$16.50	\$15.00

\*"BMOU" has the meaning set forth in paragraph 8 below.

4. Until December 31, 2001, and subject to the provisions of paragraph 7, the applicable price per Port will be \$20, subject to true-up as follows: Qwest's final price per Port for all Ports installed prior to December 31, 2001, will be determined by the average monthly MOU, as set forth in paragraph 3, for all Ports in service for the period beginning with the fourth full month of service for the first installed Port through the 12<sup>th</sup> full month of service following the installation of such Port.
5. After December 31, 2001, and for as long as Qwest uses BellSouth as its exclusive provider of RAS (or any other functionally equivalent service related to dial modem traffic) in areas in the nine-state BellSouth region (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee) (the "Region") in which RAS (or any other functionally equivalent service related

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to dial modem traffic) is available from BellSouth, the applicable price per port will be determined with reference to the average monthly local in-bound MOU of Ports in service as set forth in paragraph 3. Thus, if Qwest has 265,000 Ports in service on January 1, 2002, and the average monthly local in-bound MOU for these Ports is 10,800, the applicable monthly price per Port is \$20.00.

6. Qwest and BellSouth mutually agree to make their best commercial efforts to facilitate Qwest's migration to BellSouth as its exclusive RAS provider (or any other functionally equivalent service related to dial modem traffic) in areas in the Region in which RAS (or any other functionally equivalent service related to dial modem traffic) is available from BellSouth, by April 30, 2001. BellSouth will waive the \$45.00 non-recurring charge for past and future installations (but not for subsequent moves of Ports pursuant to paragraph 20 of this Attachment) for all Ports if exclusivity as defined in paragraph 5 is achieved by April 30, 2001 and maintained through the remaining term of this Agreement. If exclusivity is not achieved by April 30, 2001 due to an act or omission of BellSouth or a third party directed or controlled by BellSouth, or if the parties otherwise mutually agree, BellSouth shall still waive the non-recurring charge as provided in the immediately preceding sentence. BellSouth will have audit rights to verify exclusivity. Should such exclusivity not be maintained, except due to an act or omission of BellSouth or a third party directed or controlled by BellSouth in direct connection with the Ports and Services provided hereunder, or unless otherwise mutually agreed upon, Qwest shall pay BellSouth such previously waived non-recurring fees for installations for all Ports then in service and shall thereafter pay such non-recurring fees for new installations for all Ports subsequently put into service.
7. After June 30, 2001, and notwithstanding the provisions of paragraph 4, if Qwest is not using BellSouth as its exclusive RAS (or functionally equivalent service related to dial modem traffic) provider in areas in the Region in which RAS (or functionally equivalent service related to dial modem traffic) is available, the applicable price per Port for all Ports will be \$29.00 per Port per month. In addition, under such circumstances, the waiver of non-recurring fees for new installations set forth in paragraph 6 above shall not apply. Where the parties mutually agree that it is not technically feasible for BellSouth to provide the Service to specific Ports, these Ports will not be subject to the exclusivity requirement.

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8. BellSouth will pay Qwest the following amounts as cumulative levels of *bona fide* incremental local in-bound MOU (BMOU) are attained:

Cumulative BMOU	Non-Recurring Payment Amount
10 billion	\$4,240,000
20 billion	\$4,240,000
30 billion	\$4,240,000
40 billion	\$4,240,000
50 billion	\$4,240,000

Cumulative total of payments cannot exceed \$21,200,000. "B MOU" means local inbound minutes of use (MOU) to telephone numbers associated with the Ports that are not the result of any method or procedure designed to generate MOU for the purpose of obtaining either reciprocal compensation or discounted rates or payments under this Agreement. "Incremental," for the purposes of this CSA, means that the traffic is not derived from (1) any existing RAS ports that Qwest is currently purchasing from BellSouth under another agreement as of the effective date of this Agreement, (2) any other existing functionally equivalent BellSouth service related to dial modem traffic, or (3) any existing BellSouth service to which Qwest currently subscribes that is migrated to a RAS or similar platform. "Inbound" means the traffic flow from both BellSouth and in-region independent telephone companies' local exchange end-users to the telephone number associated with the Port; provided, however, any minutes attributable to in-region independent telephone companies' local exchange end-users that are in excess of 5% of the total of such in-bound minutes shall be excluded from the definition of BMOU.

9. The prices set forth herein are for incremental Ports in the BellSouth region purchased under this Agreement only and do not apply to any existing RAS ports that Qwest is currently purchasing from BellSouth, any other existing functionally equivalent service related to dial modem traffic, or any existing service migrated to a RAS or similar platform.
10. All Ports will be billed at the effective monthly rate set forth in this Agreement during the Service Period, as set forth below. Subject to the renewal provisions set forth below, the Service Period for each Port begins on the Billing Date (defined in paragraph 17) and ends on the earlier of (a) the date that is 48 months following the Billing Date for the last committed Port (the 265,000<sup>th</sup> Port), or (b) February 28, 2006. Qwest acknowledges and agrees that from and after June 30, 2002 and until the end of the Service Period, Qwest shall be billed for and shall pay for all 265,000 Ports to which Qwest has committed under this Agreement, whether or not installed, provided that all Ports actually ordered by Qwest by December 31, 2001 have been installed by

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BellSouth by June 30, 2002, and further provided that Qwest has provided BellSouth with all reasonable information, lead time and cooperation necessary to allow BellSouth to install all Ports actually ordered by Qwest. If BellSouth has not met its installation obligation because Qwest did not provide BellSouth with the requisite information, time or cooperation, Qwest will be billed for all 265,000 Ports as set forth above. Except where this Agreement is renewed, or as otherwise provided in Section 11 below, BellSouth will have no further obligation to provide service to Qwest under the terms of this Agreement at the end of the Service Period. This Agreement will renew automatically for successive one-year terms unless either party first provides 12 month's written notice of its intent not to renew.

11. Provided that Qwest is not in breach of this Agreement at the expiration or early termination hereof, BellSouth agrees to maintain the level and quality of Services being provided by BellSouth at the time of expiration or termination, and to cooperate in an orderly and efficient transition to Qwest and/or a successor vendor. Except where Qwest is in breach, BellSouth agrees to (i) furnish phase-out Services for up to six months after the expiration or termination of this Agreement on the terms and conditions contained herein (including price and discount terms in effect on the date of termination or expiration, but excluding the minimum commitment), and (ii) negotiate in good faith a plan with Qwest and/or BellSouth's successor vendor that specifies the nature, extent and schedule of the phase-out Services. As part of such phase-out Services, BellSouth shall, at no cost to Qwest and consistent with BellSouth's contractual obligations with third parties regarding non-disclosure, give Qwest or its designees all documentation in BellSouth's possession that is reasonably necessary to provide or understand the Services, provided that Qwest and its designees agree to abide by and execute BellSouth's standard non-disclosure agreement (where BellSouth discloses information) prior to such disclosure, or any non-disclosure agreement that may be required as a result of BellSouth's contractual obligations with third parties regarding non-disclosure.
12. Qwest must provide BMOU reports to BellSouth on a monthly basis for each Service Location by the 10<sup>th</sup> calendar day of the following month. The BMOU reports will provide aggregate BMOU to the network access server(s) (NAS) on a per Service Location, per rotary hunt group, basis. BellSouth will have audit rights to BMOU information pertaining to the Service in order to verify the applicable per Port rate to be charged to Qwest and to verify that BMOU reports reflect BMOU traffic. Qwest agrees to cooperate in good faith with any BellSouth audit.
13. Qwest will provide BellSouth with a list of all numbers called that are associated with the rotary hunt group referenced in paragraph 12 and/or associated with the service location and network access servers (NAS) that are made a part of the RAS arrangement covered by this Agreement. The initial list of numbers will become

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effective on December 31, 2000 and any additional numbers must be mutually agreed to by the parties.

14. (a) Qwest covenants and agrees that any and all payments, whether inter-carrier or otherwise as a result of any Output (defined as all traffic outbound from the network access server housing the Ports), whether or not direct to or through an Internet Service Provider (ISP), an enhanced service provider (ESP) or a carrier, are Qwest's responsibility. Qwest is responsible for any and all charges relating to the transport and carrier compensation arrangements relating to Output including, but not limited to, all transport and compensation for any ISP-bound traffic and any switched access charges. Without limiting the generality of the foregoing, Qwest further covenants and agrees that reciprocal compensation payments do not apply to the Service as part of this Agreement.

(b) Neither Qwest nor any of its affiliates shall make any claim for reciprocal compensation against BellSouth in connection with use of the Ports either directly or indirectly, and Qwest agrees to indemnify and hold BellSouth harmless against any and all reciprocal compensation obligations or claims that may arise as a result of any Output from any Port during the term of this Agreement.

(c) Without limiting the generality of subsections 14(a) and (b), Qwest, on behalf of itself and its Affiliates, hereby waives, relinquishes and otherwise releases any claim or claims that it or its Affiliates now have or may have, or which may arise during the term of this Agreement, against BellSouth for the payment of reciprocal compensation or like payment arising out of or in connection with any ISP or ESP activity of Qwest and its Affiliates, including, without limitation, in connection with the provision of any Internet access service involving calls originating on BellSouth's network. During the term of this Agreement, Qwest further agrees to refund to BellSouth any amounts paid to, and to waive any amounts billed by, Qwest or its Affiliate, for reciprocal compensation arising out of or in connection with any ISP or ESP activity. In the event that following December 15, 2000, in a bona fide transaction, Qwest merges into or is otherwise purchased by an entity that is not an Affiliate, with the result that Qwest ceases to exist or such entity becomes Qwest, the resulting entity shall not be bound by the provisions of this subsection 14(c). "Bona fide transaction" means a transaction not entered into for the primary purpose of avoiding obligations under this Agreement.

(d) For the purpose of paragraph 14(c), the term "Affiliate" means (1) any entity that, as of December 15, 2000, owns or controls, is owned or controlled by, or is under common ownership or control with Qwest, or (2) any successor or assign of any entity identified in 14(d)(1) above, or (3) any entity created by Qwest or any Affiliate after December 15, 2000 and its successors or assigns, except to the extent that the newly

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created entity is the result of the merger with or acquisition of or by, any entity in a bona fide transaction (as defined in subsection 14(c) above) that was (i) not affiliated with Qwest on December 15, 2000 and that (ii) has an independent claim against BellSouth for the payment of reciprocal compensation.

15. At the point in time in which Qwest achieves its Port commitment of 265,000 Ports, Qwest will have the option to purchase: a.) Two-Way Inbound/Outbound Data Only Primary Rate ISDN in areas served by BellSouth at a basic rate of \$950 per circuit and/or, b.) Inward Data Only Primary Rate ISDN in areas served by BellSouth at a basic rate of \$550 per circuit. These rates apply for any new, additional (incremental growth) ISDN PRI circuits for the remaining term of this Agreement (provided that Subscriber has maintained the exclusivity contemplated by paragraph 5). If Qwest qualifies for the per circuit PRI rates set forth above and subsequently fails to maintain exclusivity, Qwest will not be eligible to receive such rates for additional new circuits, but the rates above applied to circuits added after Qwest achieves its 265,000 Port commitment and prior to Qwest becoming non-exclusive will remain stable for the term of this Agreement.
16. Qwest and BellSouth agree to develop mutually agreeable deployment schedules for Qwest's Y2000 commitment by January 15, 2001 that identify the BellSouth central office (CO), the applicable NAS, the port density per CO, and related ordering and installation procedures. Qwest and BellSouth will also develop a mutually agreeable deployment schedule for Qwest's Y2001 commitment by March 31, 2001. In order to facilitate the implementation process, Qwest agrees to designate a Project Manager within its organization (within two weeks of the signing of this Agreement) to assist with the coordination of the installation of the egress facilities with the turn up of the NAS and to coordinate preliminary load and acceptance testing, and any final acceptance testing desired by Qwest, with the BellSouth RAS project team. In addition, Qwest will provide BellSouth with a test account on the NAS, or a mutually agreeable means, to allow BellSouth to verify that the ingress trunks are properly installed and working to BellSouth specifications. BellSouth will not have access to the test account once Qwest has been notified that the NAS is turned up for service.
17. (a) BellSouth will bill Qwest for RAS Port(s) in the following manner: After QWEST's receipt of written notice (including email) indicating that a given new RAS Port is ready for service, QWEST shall have up to forty-five (45) days to obtain all necessary egress capacity and to complete all end-to-end testing of such new RAS Port. Unless QWEST notifies BellSouth of any service deficiencies with the new RAS Port(s) during this forty-five (45) day period, such new RAS Port(s) shall be deemed active and BellSouth will begin billing QWEST for the new RAS Port(s) upon the earlier of: (i) QWEST's notice to BellSouth of service acceptance of the new

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RAS Port(s); or (ii) the expiration of the applicable forty-five (45) day period (the "Billing Date").

(b) If QWEST notifies BellSouth of any service deficiencies with a new RAS Port during the forty-five (45) day period specified in Section 17(a) above, the parties shall cooperatively troubleshoot the new RAS Port in an expeditious manner until it is operational and accepted by QWEST. If the parties mutually determine that the source of the service deficiency is within the control of BellSouth (including any contractor other than QWEST), then service activation and billing for such RAS Port shall be suspended until the service deficiency has been corrected and QWEST notifies BellSouth that the new RAS Port has been accepted; provided that if QWEST does not accept or reject the new RAS Port within ten (10) days of BellSouth's notification that the service deficiency has been corrected, service activation and billing for such RAS Port shall begin after that 10-day period, unless the initial 45-day period has not expired, in which case billing shall begin on the expiration of the initial 45-day period. If the parties mutually determine that the source of the service deficiency is within the control of QWEST (including any contractor other than BellSouth), then service activation and billing for such RAS Port shall begin as of the later of: (i) ten (10) days after the date of such mutual determination; or (ii) the expiration of the original 45-day period specified in Section 17(a) above; provided, however, that if QWEST notifies BellSouth that the new RAS Port has been accepted, then service activation and billing for the new RAS Port will begin upon QWEST's acceptance.

(c) All billing disputes will be resolved through normal dispute procedures as outlined in Carrier Notification 91081815 posted at [www.interconnection.bellsouth.com/carrier/carrier let 00.html](http://www.interconnection.bellsouth.com/carrier/carrier let 00.html).

18. BellSouth will utilize 2-way inter-office trunking technology (PRI trunks) to allow Qwest to perform testing on the trunks.
19. Qwest must purchase special access circuits and/or provide facilities to connect the RAS equipment to its POP.
20. Qwest may move Ports between Service locations with prior notice to BellSouth. Moved Ports are considered disconnects and starts and, notwithstanding paragraph 6 of this Attachment above, are subject to the \$45 non-recurring charge.
21. If Qwest terminates this Agreement in all nine states in the Region prior to its expiration for any reason other than as provided hereunder or Company's material breach of its obligations hereunder, BellSouth will bill Qwest termination charges equal to the monthly billing for the Service times the number of months remaining

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in the Agreement, taking into account and including Qwest's firm commitment to pay for 265,000 Ports after June 30, 2002 until the end of the Service Period pursuant to paragraph 10, whether or not all Ports have been ordered by Qwest or provided by BellSouth. Qwest acknowledges and agrees that termination of this Agreement in any one State in the Region for any reason other than default by BellSouth does not relieve Qwest of its obligation to obtain Service from BellSouth for the total number of Ports set forth in paragraphs 1 and 2 above, it being understood that Qwest's obligations hereunder are region-wide and not State-specific.

22. In the event that, following the effective date of this Agreement there occurs a legal, legislative or regulatory decision/order or change, whether by federal or state court, FCC, state regulatory commission, State legislature, U.S. Congress action or otherwise, that has the effect of terminating the obligation of local exchange carriers to pay reciprocal compensation, or reducing the net reciprocal compensation rate which BellSouth pays competitive local exchange carriers ("CLECs") below 50.0015 per minute (a "material alteration") for calls originating from or directed to or through an ESP or ISP, then upon such termination or implementation of the material alteration BellSouth shall have the right to (a) continue with this Agreement; (b) terminate this Agreement and allow Qwest 6 months (or best commercial effort to meet 6 month time frame, but in no event more than 9 months) to migrate Ports from the BellSouth network without charge; (c) cap Port growth in place and accept no additional incremental Ports under this Agreement; or (d) mutually agree with Qwest on a revised rate schedule; provided, however, that if BellSouth takes any action set forth in subsections (b) or (c) above, then notwithstanding any provision herein to the contrary, Qwest will be deemed to have satisfied the exclusivity obligations set forth in Section 5 and its commitment obligations set forth in Sections 1 and 2.

23. Qwest commits to purchase and maintain for the term of this CSA, the following services in the following quantities from BellSouth, at rates agreed upon by the parties, provided that Qwest shall not be required to purchase and maintain the following services in the following quantities if BellSouth is unable or unwilling to install such services within a commercially reasonable time after the date hereof, or any such service fails to meet applicable performance specifications or levels set forth in applicable tariffs.

<u>Qty.</u>	<u>Type</u>
80	SmartRing® OC-48
4	SmartRing® OC-192

If at any time during the term of this Agreement Qwest fails to meet this commitment, except as otherwise excused herein, the applicable price per Port for any monthly

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payment during the Payment Period will be \$29.00, notwithstanding Qwest's exclusive use of the Service.

24. In the event (i) a Port fails to meet any applicable performance specification as set forth in Schedule SLA attached hereto (an "Interruption"), and/or (ii) there is a delay not reasonably attributable to Qwest in any way in the implementation, completion, delivery, addition, deletion, change or move of a Port beyond the deadline mutually agreed by the parties (e.g., the Firm Order Commitment) at the time an order therefor is placed (a "Delay"), Qwest will be entitled to the following:

In the event of an Interruption, BellSouth shall grant Qwest a credit equal to 3% of the monthly recurring charges for the Port experiencing the Interruption for each hour of Interruption or portion thereof, up to 25% for any one day and 100% in total for any month. If a material number of Ports (greater than 50%) experience an Interruption in any two months in a three-month period, Qwest may terminate this Agreement without any liability to BellSouth, including, without limitation, any liability for termination charges.

In the event of a Delay (as defined above) the duration of which is 15 days or longer, BellSouth shall grant Qwest a credit ("Delay Credit") equal to 100% of recurring monthly charges for the affected Service(s) (a Delay for part of a day shall be considered a Delay for a full day for purposes of calculating the Delay Credit).

25. EXCEPT AS MAY BE PROVIDED IN PARAGRAPH 14 HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, EVEN IF THE PARTIES HAVE KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES. It is understood and agreed by the parties that all reciprocal compensation and like obligations and claims that are the subject of paragraph 14 herein are neither covered nor limited in any way by the foregoing limitations. In the event any applicable law does not allow the limitation or exclusion of liability as provided for in this Agreement, the subject limitation or exclusion of liability shall be deemed modified so as to limit or exclude the parties' liability for damages hereunder to the greatest extent permitted by such law. Except for any obligations of Qwest, of any Qwest affiliate or any assignee of Qwest which arise out of paragraph 14 of this Agreement relating to reciprocal compensation (which are not capped or limited in anyway by this provision), no party's cumulative, aggregate liability to the other under this Agreement shall exceed the total amount payable by Qwest to BellSouth as provided herein.

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- 26 If, at BellSouth's option, BellSouth desires to purchase Remote Access Service or any functionally equivalent service from Qwest in areas within Qwest's 14 state USWEST region (Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming) where Qwest provides Remote Access Service or any functionally equivalent service, Qwest agrees to make such services available to BellSouth on the same terms and conditions as BellSouth is affording the Service to Qwest herein.
27. This CSA will be void if not executed by both parties prior to December 15, 2000.

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## SCHEDULE SLA

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By no later than January 31, 2001, the parties shall mutually agree to additional and/or supplemental terms for the SLA (none of which shall be inconsistent with the following):

**Section 1. Force Majeure**

Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement no Delay or Interruption shall be deemed to have occurred and no termination right shall be deemed to arise under Section 24 of the Agreement, as a result of any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, strikes, labor disputes, nuclear accidents, floods, power blackouts, or unusually severe weather. In the event of any such excused delay in the performance of a Party's obligation(s) under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of delay. In the event of such delay, the delaying Party shall perform its obligations at a performance level no less than that which it uses for its own operations and shall resume performance in a nondiscriminatory manner.

**Section 2. Interruption**

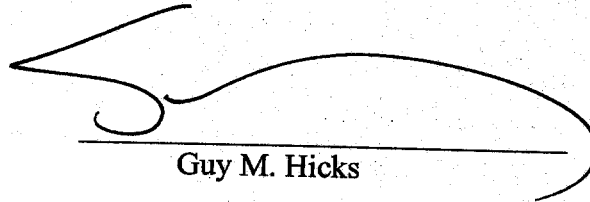
For the purposes of this Agreement an Interruption means, with respect to a Port, a complete service outage (no traffic can traverse the Port) within the BellSouth ingress facilities (up to, but not including, the network access server) used to provide service to the Port. For purposes of measuring duration, an Interruption will be deemed to have occurred and be continuing, for the following periods, commencing upon receipt by BellSouth of official notice from Customer of such occurrence: (a) for an hour, if a service outage to the ingress facilities (up to, but not including, the network access server) causes a Port to be out of service for 15 minutes in any one 60 minute period; (b) for a day, if a service outage to the ingress facilities (up to, but not including, the network access server) causes a Port to be out of service for 12 or more hours in any one 24 hour period; (c) for a month, if a service outage to the ingress facilities (up to, but not including the network access server) causes a Port to be out of service for 15 or more days in any one calendar month period; and (d) for two months in a three month period, if a service outage to the ingress facilities (up to, but not including, the network access server) causes a Port to be out of service for any two month-long periods during any three consecutive calendar month period. Notwithstanding the foregoing, physical repair functions that require access to BellSouth's COs shall be BellSouth's responsibility and shall be undertaken in commercially reasonable timeframes.

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**CERTIFICATE OF SERVICE**

I, Guy M. Hicks, hereby certify that I have served a copy of the foregoing Petition for Approval of the Amendment to the Resale Agreement on the following via United States Mail on the 12<sup>th</sup> day of Dec, 2001:

QwestLink  
4250 North Fairfax Drive 12W035  
Arlington, VA 22203



Guy M. Hicks